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Situation of human rights in the Democratic People's Republic of Korea

The Secretary-General has the honour to transmit to the General Assembly the report prepared by the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Marzuki Darusman, in accordance with Commission on Human Rights resolution 2004/13.

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I. Introduction

Background

1. The mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea was first established by the Commission on Human Rights in 2004 pursuant to its resolution 2004/13. Since then, the mandate has been extended annually. Also pursuant to that resolution, the Special Rapporteur submits two reports per year, one to the Human Rights Council and another to the General Assembly. The current report draws on his visit to Thailand from 13 to 17 June 2011 and on meetings held in Geneva and New York since March 2011.

2. Besides providing an overview of the current situation in the Democratic People's Republic of Korea, the Special Rapporteur presents key conclusions and makes recommendations to the Government of the Democratic People's Republic of Korea and to the international community.

3. In the present report, the Special Rapporteur focuses on the situation of asylum-seekers and trafficking of persons, the issue of food security, the health system and the general status of health of the people of the Democratic People's Republic of Korea, freedom of opinion and expression, and political prisons.

II. Methodology

4. The report is based on a number of sources of information. Between 13 and 17 June 2011, the Special Rapporteur conducted a mission to Thailand, where he met with different actors, including relevant officials of the Royal Thai Government, the United Nations Children's Fund (UNICEF), the World Food Programme (WFP), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Population Fund (UNFPA), the Food and Agriculture Organization of the United Nations and non-governmental organizations and academics and diplomats. The purpose of his visit was to gather information on the human rights situation in the Democratic People's Republic of Korea and learn about the activities of the United Nations in the country. The Special Rapporteur has combined his observations and the information he gathered during his field mission with reports, interviews and briefing papers gathered by non-governmental organizations, United Nations offices and numerous other reliable sources.

5. The Special Rapporteur expresses his thanks to the Royal Thai Government for facilitating his visit to Thailand. The Special Rapporteur also wishes to thank the non-governmental organizations and United Nations regional offices for sharing information and updating him on their operations in the Democratic People's Republic of Korea.

6. Since his appointment, the Special Rapporteur has made numerous requests to visit the Democratic People's Republic of Korea and to meet with the Permanent Representative of the Democratic People's Republic of Korea to the United Nations in Geneva and in New York. His last request to enter the country, made on 17 May 2011, was rejected by the Government, which stated that its position was to "resolutely and categorically" reject the mandate of the Special Rapporteur.

7. During his mission to Thailand, the Special Rapporteur was briefed on a number of important issues, such as trafficking, detention of asylum-seekers in transit countries, abuses of asylum-seekers en route to the Republic of Korea, violations of human rights in the Democratic People's Republic of Korea, issues related to severe scarcity of food, and operations of the United Nations that are aimed at alleviating the plight of people in the Democratic People's Republic of Korea.

III. Overview of the current situation in the Democratic People's Republic of Korea

8. Over the reporting period, the country has faced one of the harshest winters in living memory. This was coupled with a squeeze on commercial imports and on bilateral food assistance,[1] followed by an outbreak of foot-and-mouth disease. All of these factors, together with the continued failure of the public distribution system, exacerbated the scarcity of food.

9. In response to the outbreak of foot-and-mouth disease among pigs and cattle, a team of animal health specialists from FAO and the World Organization for Animal Health provided veterinary assistance.[2] In February and March 2011, in response to a request from the Government, FAO, WFP and UNICEF conducted a joint food assessment, which provided a better understanding of the food needs of the population. In April 2011, based on the outcome of the joint food assessment, the three United Nations entities launched an appeal for food assistance to over 6 million people in the country.

10. In March 2011, the Republic of Korea lifted a virtual ban on aid provided by Republic of Korea-based non-governmental organizations, following the shelling of Yeongpyong island in November 2010. Two civic groups of the Republic of Korea were authorized to send much-needed food items worth 176 million won ($161,734) to children at nurseries and orphanages in north-eastern parts of the Democratic People's Republic of Korea. In July 2011, the Republic of Korea authorized private relief groups to ship 300 tons of flour to the Democratic People's Republic of Korea. The announcement followed talks between the Republic of Korea and the Democratic People's Republic of Korea on the sidelines of an Association of Southeast Asian Nations (ASEAN) regional meeting held in Indonesia. However, the Ministry of Unification of the Republic of Korea mentioned that there still are no plans for sending Government food aid to the Democratic People's Republic of Korea. Since March 2011, few other Governments have come forward to provide food aid to the Democratic People's Republic of Korea. In May 2011, the United Nations Emergency Relief Coordinator highlighted the fact that in the last 10 years, humanitarian support to the country had decreased tenfold despite successive Security Council resolutions noting the need to safeguard humanitarian funding.

11. In August 2010, during a private visit by former President of the United States, Jimmy Carter, to the Democratic People's Republic of Korea, the possibility of the

[1] See World Food Programme country note on the Democratic People's Republic of Korea. Available from http://www.wfp.org/countries/Korea--Democratic-People-s-Republic--DPRK-/Overview.

[2] See http://www.fao.org/world/regional/rap/home/news/detail/en/?news_uid=52162.

Government's engagement with the Elders,[3] an independent group of eminent global leaders, was discussed; and in February 2011, the Elders received an official invitation from the Government of the Democratic People's Republic of Korea to visit the country. In April 2011, a delegation of Elders visited China, the Republic of Korea and the Democratic People's Republic of Korea.[4] At the end of their mission, they called on the Government of the Democratic People's Republic of Korea, inter alia, to comply with Human Rights Council resolution 16/8 of 24 March 2011, including granting permission for a visit by the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea.[5] The Elders also called upon the international community to respond positively and urgently to the appeals of the Government of the Democratic People's Republic of Korea and international humanitarian agencies to provide emergency food assistance to the most vulnerable sections in the country. However, the Elders emphasized that the provision of food aid should not lessen the Government's responsibility for providing for its own people, if necessary through appropriate policy reforms. The Elders also stressed the importance of the Government's fulfilling the agreements reached with United Nations organizations on transparency and monitoring of food aid distribution.[6]

12. In May 2011, Ambassador Robert King, the United States Special Envoy for North Korean Human Rights Issues, visited Pyongyang and met with Mr. Kim Kye-gwan, First Vice-Minister for Foreign Affairs, and other high-level officials in the Ministry of Foreign Affairs. This was the first time that the Special Envoy was granted access to the country and the first time that he was able to engage in a direct dialogue about the ways in which the Democratic People's Republic of Korea can improve its human rights record.[7]

13. The Special Rapporteur is encouraged by these visits and by the Government's engagement with the Elders and Ambassador Robert R. King on human rights issues, and hopes that such dialogue continues.

14. Since the shelling of Yeongpyong island in November 2010, there have been several calls by different parties for a resumption of the six-party talks. On 29 March 2011, China and the Republic of Korea exchanged views on restarting the process; and on 23 July 2011, preliminary talks between the Foreign Ministers of the Republic of Korea and the Democratic People's Republic of Korea were held on the margins of an ASEAN regional meeting in Bali, Indonesia. Another equally encouraging development was the invitation extended by the Government of the

[3] The Elders is an independent group of eminent global leaders, founded by Nelson Mandela, who work together to support peacebuilding and human rights. Members of the Elders no longer hold public office and are independent of any Government.

[4] The delegation comprised former President of Finland, Mr. Martti Ahtisaari, former Prime Minister of Norway and former Director General of the World Health Organization (WHO), Dr. Gro Brundtland, former President of the United States, Mr. Jimmy Carter, and former President of Ireland and former United Nations High Commissioner for Human Rights, Mrs. Mary Robinson.

[5] For a complete report on the Elders' visit to the Korean Peninsula and China, 24-29 April 2011, see http://www.theelders.org/docs/korean-peninsula/Report-Elders-visit-China-Korean-Peninsula-April-2011-EN.pdf.

[6] Ibid.

[7] For the statement of Ambassador Robert R. King, Special Envoy for North Korean Human Rights Issues, before the House Committee on Foreign Affairs, see http://foreignaffairs.house.gov/112/kin060211.pdf.

United States to the First Vice-Minister for Foreign Affairs of the Democratic People's Republic of Korea to participate in talks in New York in July 2011. The Special Rapporteur hopes that these initial bilateral talks will lead to an early resumption of the six-party talks.

A. Asylum-seekers from the Democratic People's Republic of Korea and trafficking

15. It is difficult to estimate the number of people leaving the Democratic People's Republic of Korea at any given period, inasmuch as it takes months, and sometimes years, before they reach either a country where proper statistics of asylum-seekers are available or a final destination such as the Republic of Korea. However, available statistics indicate that between January and April 2011, close to 870 asylum-seekers crossed over to Thailand after travelling through a number of countries in the region.[8] In 2004, there were 40 asylum-seekers from the Democratic People's Republic of Korea in Thailand. Since then, there has been a steady increase, with 2010 marking a peak of 2,482.[9] While the Special Rapporteur is encouraged by the fact that Thailand has consistently adhered to the principle of non-refoulement with respect to asylum-seekers from the Democratic People's Republic of Korea, he notes with concern that not all countries in the region have adhered to this principle as a standard practice.

16. Asylum-seekers are sometimes "aided" by human traffickers in travelling to neighbouring countries[10] and beyond. A trip from the Democratic People's Republic of Korea to any of the South-East Asian countries or to the Republic of Korea could cost as much as 3,500 United States dollars.[11] While most asylum-seekers are exploited by traffickers, it is women and children who are particularly vulnerable. Women who are trafficked are often exposed to various forms of violence both before and after they have been trafficked. Reports indicate that some women decide to leave the Democratic People's Republic of Korea to find food, to escape harsh living conditions including the lack of enjoyment of a wide range of rights, to earn money for their families, or to escape from abusive husbands. Irrespective of their reasons for fleeing the country, almost all of them become victims of trafficking. Most of these women are approached by brokers at train stations and markets and are easily enticed by their false promises of well-paying jobs in surrounding countries.

17. In some cases, women are sold to nationals of transit countries as sex slaves to work in brothels or karaoke bars; in other cases, they are forced to marry in order to avoid deportation, as noted in the recent report by the International Crisis Group Asia,[12] which refers specifically to the mental and physical effects of sexual assault and forced prostitution during their journeys to the Republic of Korea. The report

[8] See http://www.bangkokpost.com/news/local/235550/illegal-north-korean-migrants-on-rise.

[9] Ibid.

[10] Ibid.

[11] Ibid.

[12] See "Strangers at home: North Koreans in the South", Asia Report, No. 208 (International Crisis Group, 14 July 2011), p. 20. Available from http://www.crisisgroup.org/~/media/Files/asia/north-east-asia/north-korea/208%20Strangers%20at%20Home%20-%20North%20Koreans%20in%20the%20South.pdf.

also mentions that close to 90.3 per cent of the asylum-seekers passing through transit countries marry nationals of or ethnic Koreans living in such countries so as to avoid repatriation to the Democratic People's Republic of Korea.[13] Children born to fathers from transit countries and women asylum-seekers from the Democratic People's Republic of Korea have great difficulty in obtaining household registration certificates or the equivalent, and are consequently denied education and other State services. There are many reports of these stateless children being abandoned by their fathers. I urge the concerned Governments in the region to adopt a policy that would facilitate access to services and ensure education for partners in mixed marriages.

18. Most South-East Asian countries use detention as a migration management tool which is applied to enforce immigration laws, even against refugees and asylum-seekers. Some of the States in the region are not signatories to the 1951 Convention relating to the Status of Refugees.[14] In one case, an asylum-seeker was detained in five different countries over a period of six months before he finally reached the Republic of Korea. Prolonged and/or indefinite detention, poor conditions in detention centres, restricted access by non-governmental organizations and lack of access to judicial remedies and to adequate health-care systems are matters of concern.[15] Reports also indicate that refugee children and children who are asylum-seekers are also detained in most South-East Asian countries. The Special Rapporteur emphasizes that the use of detention in these countries is not confined to asylum-seekers from the Democratic People's Republic of Korea, and includes asylum-seekers from other countries too.

19. There are reported cases of asylum-seekers who have lost their lives while crossing rivers and other difficult terrain. Besides receiving numerous reports from non-governmental organizations on the exploitation of asylum-seekers by traffickers, the Special Rapporteur has directly and consistently heard such claims from asylum-seekers whom he has met during his missions.

20. The Special Rapporteur wishes to remind States that, while taking measures to prevent exploitation by traffickers or people smugglers, they should also ensure that asylum-seekers have easy access to assessment procedures and protection, including access to organizations working on refugee issues. He further calls on States in the region that are not yet a party to the 1951 Convention on the Status of the Refugee to ratify the Convention at the earliest possible date.

B. The right to food

21. WFP, FAO and UNICEF have highlighted the severe shortage of food as the most urgent concern in the Democratic People's Republic of Korea. The Special Rapporteur was informed that the food assistance provided by the international community is now dwindling and that the Democratic People's Republic of Korea continues to face regular significant food shortages. Apart from the harsh winter, a squeeze on commercial imports and bilateral assistance has raised concerns

[13] Ibid.

[14] United Nations, *Treaty Series*, vol. 189, No. 2545.

[15] See Office of the United Nations High Commissioner for Refugees Asia-Pacific detention brief.

regarding the food security situation in 2011.[16] The commercial import capacity of the country has been reduced owing to three main factors: (a) high international food and fuel prices, (b) reduced earnings due to the political fallout involving the Republic of Korea and (c) devaluation of the currency of the Democratic People's Republic of Korea.

22. In recent months, a number of assessments were carried out, such as the Multiple Indicator Cluster Survey led by UNICEF and, as mentioned, a joint rapid food security assessment conducted by WFP, FAO and UNICEF.[17] These undertakings have provided a better understanding of the food situation in the country. While malnutrition rates among children have decreased in the last decade, 1 in every 3 children remains chronically malnourished or stunted. One quarter of all pregnant and breastfeeding women are also malnourished. The crop and food supply assessment mission in October 2010 noted that a small shock in the future, either natural or man-made, could trigger a severe crisis which it will be difficult to contain if these chronic deficits are not effectively managed.[18]

23. Reports indicate that the current rations provided by the Government of the Democratic People's Republic of Korea can meet less than half of the daily calorific needs for the 68 per cent of the 16 million population receiving public food rations through the public distribution system. Most people struggle to make up this deficit through alternative means, as they do not have the necessary purchasing power.[19]

24. The Special Rapporteur has been concerned that the public distribution system will have run out of food by the beginning of the lean season, which covers May-July 2011,[20] substantially increasing the risk of malnutrition and other diseases, particularly in food-deficit counties. The Special Rapporteur is particularly concerned about those most vulnerable to food insecurity, like children, pregnant and lactating women, the elderly, large families with a high dependency ratio,[21] people unable to work because of prolonged or chronic illnesses, and people with disabilities. The joint rapid food assessment mission recommends provision of a total of 297,000 MT (metric tons) of cereals and 137,000 MT of fortified blended food, to 6,100,000 vulnerable people.

25. Those dependent on the public distribution system are currently coping with reduced rations by relying on relatives living in rural areas; reducing the number of meals consumed in a day and decreasing the portion size; and resorting to increased utilization of wild vegetables.

26. The total 2010/11 staple food production is approximately 4,252,000 MT. This figure is 232,000 MT below that reported by the 2010 crop and food supply

[16] See the WFP's country note on the Democratic People's Republic of Korea. Available from http://www.wfp.org/countries/Korea--Democratic-People-s-Republic--DPRK-/Overview.

[17] For the full special report on the WFP/FAO/UNICEF rapid food security assessment mission to the Democratic People's Republic of Korea, see http://ko.wfp.org/sites/default/files/english_rfsa.pdf.

[18] Ibid.

[19] Ibid.

[20] See the special report on the joint WFP/FAO/UNICEF rapid food security assessment mission to the Democratic People's Republic of Korea, p. 4. Available from the web address given in footnote 17 and from http://documents.wfp.org/stellent/groups/public/documents/ena/wfp233442.pdf.

[21] With few income earners, and many children and elderly dependants.

assessment mission, mainly owing to a prolonged cold winter which has reduced the harvest of winter wheat, spring barley and potato. Reports indicate that a higher-than-normal proportion of potato seeds in winter storage has been damaged. Furthermore, it is estimated that the 2011 spring season will yield only 60 per cent of planned production. Production of pickled vegetables (kimchi) has been reduced owing to the heavy rains in August and early September 2010. Kimchi constitutes an important food component of the Korean diet, particularly in the winter months.

27. The joint food assessment report indicates that there is a cereal import requirement of 1,086,000 MT for the 2010/11 marketing year. The commercial import capacity of the country in 2010/11 has been reduced as a result of reductions in export earnings, as well as higher international food and fuel prices. The Government currently plans to import 200,000 MT of cereals but as of end-January, it had imported only 40,000 MT. Also, the reduction of bilateral food assistance in recent years has had a substantial impact on food and nutrition security.

28. Reports by the United Nations offices in the Democratic People's Republic of Korea suggest that, as a follow-up step towards improving the nutrition security situation, provision of health and nutrition packages to mothers and children needs to be implemented. Improved water supply and sanitation will be needed in all babies' homes, orphanages and primary and secondary boarding schools, as well as hospitals, nurseries, primary schools and rural clinics. Agricultural interventions including potato storage and grain drying, as well as measures to address the foot-and-mouth disease outbreak, are needed to improve food security in the short and medium term. Improved monitoring and reporting will be critical to ensuring the effectiveness and efficiency of the support provided.

29. Structural problems within the food production system in the Democratic People's Republic of Korea, along with the Government's total control of food production and the supply chain system, have also been a contributing factor to the current food crisis. The country's public distribution system requires that farmers in agricultural regions hand over a large portion of their production to the Government. The public distribution system then reallocates these surpluses to urban regions, where the population cannot grow their own food.

30. In addition to the public distribution system rations, household food security depends on the ability to collect food growing or grown in the wild, and fish. Limited private kitchen gardening on rooftops of houses has been tolerated. However, there is limited access to these other sources of food, given the restrictions on movement from county to county. Households located far from the mountains or coastal areas cannot freely access food in the wild, fish and/or seaweed. Many urban residents do not have access to a household garden or if they do, it is one of limited size.

31. In April 2011, WFP launched an emergency operation designed to support over 3.5 million of the most vulnerable people in 107 counties in 8 provinces with food and nutritional support. Since the joint appeal, a number of countries have come forward to provide humanitarian assistance. While it might not be enough to fully cater to the needs of the people of the Democratic People's Republic of Korea, this is certainly a welcome step.

32. The Special Rapporteur believes that there is a need for a two-pronged approach if the problem of the scarcity of food is to be overcome and the right to

food is to be assured in the longer term. While the international community resumes provision of food and other humanitarian assistance, the Government of the Democratic People's Republic of Korea should initiate urgent policy measures to rectify flaws in the public distribution system and the centrally controlled economy.

C. The right to health and the right to water and to sanitation

33. The Constitution of the Democratic People's Republic of Korea guarantees universal and free health care through a health system that is in equal parts oriented towards prevention and towards cure, and comprises:

(a) Household doctors attached to a work team (130 families);

(b) Clinics, polyclinics and hospitals in each *ri* and *dong*;[22]

(c) A hospital and anti-epidemic station in each county or urban district;

(d) Specialized institutions (maternity/paediatric hospitals, blood centres and medical warehouses) in each province and municipal city.

34. The country has a reasonably high ratio of doctors to population (317 per 100,000) and a high doctor-to-nurse ratio (1:1.113). A major area of comparative success has been in the prevention of disease through immunization. However, over the past decade or so, the health system has become increasingly vulnerable owing to the economic difficulties faced by the country. This has led to a general deterioration of infrastructure and shortages of medicines and other supplies. Many years of deficits in budgetary allocations have led to a debilitated health system, which has consequently affected the health and nutrition status of the population of the Democratic People's Republic of Korea. The deficiencies in the health system combined with undernutrition exacerbate maternal and child mortality.

35. The Special Rapporteur is deeply concerned by the fact that the Democratic People's Republic of Korea is the only country in the Asia-Pacific region that is not on track to meet Millennium Development Goals 4 (reduce child mortality), 5 (improve maternal health) and 6 (combat HIV, malaria and other diseases). Tuberculosis constitutes a significant health concern for the overall population. Malaria (*Plasmodium vivax*) has continued to undermine public health to varying degrees in 7 out of 10 provinces in the Democratic People's Republic of Korea since its re-emergence in the late 1990s.

36. Given the fact that the State has made virtually no new investments since the early 1990s, its ability to deal with potential large-scale health problems is severely compromised. The lack of adequate water and sanitation facilities, shortages of electricity, and the lack of minimum physical facilities make it difficult to maintain proper hospital infection controls.

37. At the same time, indications have been reported of overcapacity in hospitals, with hospital beds and their attendant human resources underused. The gap described above could be explained by constraints on quality of care, on availability of medicines and, in winter, on heating and adequate water supply systems. Health professionals have not had access to many of the advances that have been achieved

[22] Each county in the Democratic People's Republic of Korea is further subdivided into smaller geographical areas called *ri*. A *dong* is a neighbourhood.

in public health around the world. Moreover, research and development and training institutions in the Democratic People's Republic of Korea are focused more on specialties, than on advancing basic standards of care and evidence-based practices.

38. Serious shortages persist in essential medicines and in basic medical equipment and supplies. Estimates suggest that, currently, less than 30 per cent of essential drug needs are covered. The country previously produced its own drugs but the factories concerned now operate well below their potential. Most of the essential drugs required to treat basic respiratory infections and diarrhoeal diseases affecting children have to be provided by external agencies. The sparse gains made in reducing morbidity and mortality are therefore tentative at best.

39. While the Special Rapporteur appeals to the international community to provide humanitarian assistance, including medical supplies, he also recommends that the State pay increased attention to ensuring adequate nutrition and health care for women and children suffering from chronic malnutrition so as to advance the right to health. He further urges the State to take effective measures to improve the conditions of maternal care, including prenatal health services. It is evident that there is an urgent need for increased budgetary allocation for strengthening of logistics in hospitals and clinics across the country. The Special Rapporteur recommends that the Government work closely with the WHO office based in the Democratic People's Republic of Korea and make use of its technical expertise.

40. Inadequate access to safe water and sanitation services, and poor hygiene practices, are often the key variables that affect health and living standards of a country's population. The water, sanitation and hygiene conditions in a country are also directly linked to the alleviation of poverty and hunger, the empowerment of women, improvements in maternal health, and the reduction of major communicable diseases. In the Democratic People's Republic of Korea, the quality and infrastructure of water, sanitation, and hygiene and practices related thereto have been deteriorating continuously over many years.

41. Extensive coverage of piped water supply systems was initiated in the early 1980s, predominantly by pumping surface-water sources, such as rivers, streams and shallow wells, using electricity-driven pumps and motors. However, low levels of investment, shortage of electricity, and recurrent natural disasters have considerably eroded the national systems. Additionally, the widespread shortage and low voltage of electricity supply make water pumping sporadic and substantially shorten the life of pumping equipments. As a result, water-pumping stations are barely able to supply an adequate quantity of safe water to many rural and urban populations. This is compounded by the high rate of loss through old, leaking pipes. According to the 2008 census, 22 per cent of the population spends time fetching water for domestic uses, often from unprotected sources. Geographical disparities also exist: only 18 per cent of the urban population depend on alternate water sources, while almost 29 per cent of the rural population need to find water outside the piped-water grid. The quality of supplied water is also critical. Disinfection by chlorination is the main method of ensuring bacteriological quality of water. However, owing to lack of supplies and to aged equipment, the disinfection process is not routinely and adequately carried out.[23]

[23] See p. 36 of the overview document at http://reliefweb.int/sites/reliefweb.int/files/resources/DPRK%20OFD%20vMay2011.pdf.

42. The Special Rapporteur emphasizes that the right to water and sanitation requires that they be available, accessible, safe, acceptable and affordable for all and without discrimination. Having access to safe drinking water and sanitation is central to living a life of dignity and upholding human rights. In general, the roots of the water and sanitation crisis can be traced to poverty, inequality and unequal power relationships, and the crisis is being exacerbated by social and environmental challenges.

43. For this crisis to be addressed, access to safe drinking water and sanitation must be considered within a human rights framework. Such access is explicitly referred to, for instance, in the Convention on the Rights of the Child,[24] the Convention on the Elimination of All Forms of Discrimination against Women[25] and the Convention on the Rights of Persons with Disabilities.[26]

D. Humanitarian space

44. The Special Rapporteur believes that the Government should provide more monitoring-related access to non-governmental organizations and the international community in order to ensure that aid reaches its intended recipients. The Special Rapporteur is aware that the situation in the Democratic People's Republic of Korea is unique. Negotiating a "humanitarian space" has therefore been a long and difficult process, with the Government often either unwilling or unable to provide the access required by humanitarian agencies whose goal is to undertake normal programme implementation, monitoring and evaluation activities. Despite this, recent negotiations between WFP and the Government show that there can be significant improvement in the situation.

45. A recent letter of understanding governing WFP operating conditions in the Democratic People's Republic of Korea has given the Programme greater access in terms of monitoring its own operation so as to ensure that humanitarian supplies are consumed by the targeted beneficiaries. Notification for monitoring visits has been reduced to 24 hours and the random selection of area, institution and household for monitoring visits has been improved. WFP has also been granted access to markets and to non-WFP beneficiary households. The programme may deploy Korean speakers without limitations as to nationality.

46. Among the numerous reasons for maintaining a humanitarian space in the Democratic People's Republic of Korea, the requirement that the needs of its people be continuously assessed so as to ensure that the aid provided reaches the intended recipients, and the fact that entities providing aid on the ground are, in many ways, accountable to donors in respect of the effective distribution of such aid, stand out as particularly important. The Special Rapporteur also underscores the importance of expanding such space to encompass not only all forms of humanitarian assistance, but also developmental aid provided by the United Nations and other organizations offering support to the country.

47. The Special Rapporteur very much appreciates the initiative undertaken by the Government and WFP and encourages the Government to provide similar access to

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[24] United Nations, *Treaty Series*, vol. 1577, No. 27531.

[25] Ibid., vol. 1249, No. 20378.

[26] General Assembly resolution 61/106, annex I.

all United Nations and non-governmental organizations operations in the Democratic People's Republic of Korea.

E. Freedom of opinion and expression

48. In the Democratic People's Republic of Korea, freedom of speech and expression is extremely limited. The Special Rapporteur is concerned by recent reports that the authorities in the country continue to impose severe restrictions on freedom of opinion, expression and assembly, despite constitutional guarantees of these rights.[27] Criticism of the Government and its leaders is strictly curtailed, and is punishable by arrest and incarceration in prison camps. The Government distributes radio and television sets with pre-adjusted bandwidth, which the citizens are forbidden to alter so as to make it possible to receive broadcasts from other nations. People who were caught listening to foreign broadcasts were detained by the State authorities and sentenced to long prison terms.

49. The provisions of the Press Law of the Democratic People's Republic of Korea are not in line with a State party's obligation under article 19 to the International Covenant on Civil and Political Rights.[28] Article 48 of the Press Law, for instance, empowers the State to criminalize any statement, publication, news or article that is critical of the State or its organs.[29] Furthermore, article 103 of the Penal Code of the Democratic People's Republic of Korea, as amended in 1999, stipulates that anyone seriously disturbing the social order shall be punished with up to 5 years of correctional labour and, in serious cases, their leader(s) shall be punished with up to 10 years of correctional labour. When the Democratic People's Republic of Korea further amended the Penal Code in April 2004, with the aim of including specific acts that would constitute such crimes, it included listening to broadcasts from the Republic of Korea; collecting, possessing and circulating printed matter from the Republic of Korea; and spreading unfounded rumours.[30]

50. The Special Rapporteur is concerned by the fact that the availability of foreign newspapers to the public is highly restricted in the country, which has no independent national media, and by the fact that the State places severe restrictions on journalists' travel within the country and abroad. Restrictions placed on journalists and others who seek to exercise their freedom of expression and opinion are incompatible with provisions under paragraph 3 of article 19 of the International Covenant on Civil and Political Rights. State-controlled media have also been used to defame independent reporting through allegations attacking the integrity, morals and independence of journalists and media outlets. Complaints have been fabricated to discredit independent non-governmental organizations and journalists.

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[27] See, for instance, Amnesty International annual report 2011, p. 198. Available from http://files.amnesty.org/air11/air_2011_countryreports_en.pdf.

[28] See General Assembly resolution 2200 A (XXI), annex.

[29] Article 48 states, for instance, that under article 48 of the Press Law and its Enforcement Rule, and articles 46 and 152 of the criminal law, expression of one's thought is forbidden such as encouraging others to attempt to overthrow, disrupt or undermine the State, disclosing State secrets to do serious harm to the State security and the healthy public order, insulting another or impairing his or her honour.

[30] See *White Paper on Human Rights in North Korea, 2010* (Seoul, Korea Institute for National Unification (KINU), November 2010), pp. 289-290. Available from http://www.kinu.or.kr/upload/neoboard/DATA04/2010%20white%20paper.pdf.

51. Severe restrictions on freedom of movement coupled with tight control on independent media have made it very difficult for the international community to understand fully the needs of the people and respond in an appropriate manner. The Democratic People's Republic of Korea is among the most isolated of nations, with cyberspace policies considered to be among the most restrictive in the world. The country remains one of the hardest to access — by e-mail, telephone or Internet. Yet, tiny signs from Pyongyang indicate that there is a small but growing digital world in the Democratic People's Republic of Korea and a whole new set of instruments to go with it, such as e-libraries, information technology, an operating system known as Red Star and a Web portal called Naenara.[31] The Special Rapporteur calls on the Democratic People's Republic of Korea to become a part of the digital revolution through which numerous developing countries around the world have been able to experience economic transformation by embracing information technology and cyberspace. The unique and transformative nature of the Internet enables individuals to exercise not only their right to freedom of opinion and expression, but also a range of other human rights, and to promote the progress of society as a whole.

F. Violence against women

52. Women's rights are guaranteed under article 77 of the revised 2009 Constitution of the Democratic People's Republic of Korea, which states that "women are accorded an equal social status and rights with men" and that "(t)he State shall guarantee all conditions for women's advancement in the society". In addition, article 1 of the Law on Sex Equality, 1946, stipulates that "(w)omen shall have equal rights with men in all spheres of the State's economic, social, cultural and political life", and article 18 of the 1990 Family Law states that "(T)he husband and wife shall have equal rights within the family". While these provisions are important for protecting the rights of women, their main focus is on equality and non-discrimination. The Penal Code, amended in 2004, comprises certain provisions that deal with sexual violence, such as article 293, which provides that "if any man raped a woman by the use of force (violence), intimidation, or in a situation where she had no recourse to get help, he would be given up to five years of correctional labour penalty". Similarly, article 293 of the Penal Code provides that "if any man forced a woman into sex, and the victim was working for or reporting to him, he would be punished with up to two years of labour-training, and in serious cases, with up to two years of a correctional labour penalty". What is lacking in the Democratic People's Republic of Korea is specific legislation established to deal with all forms of violence against women and accompanying prevention and protection measures for victims.

53. In addition to providing domestic legislation, the Democratic People's Republic of Korea also has the duty to protect women's rights and eliminate gender-based violence under international human rights conventions. The Democratic People's Republic of Korea is a State party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights[32] and the Convention on the Elimination of All Forms of Discrimination

[31] See Associated Press, report entitled "Quiet digital revolution underway in North Korea". Available from http://www.msnbc.msn.com/id/43872536/ns/technology_and_science-tech_and_gadgets/t/quiet-digital-revolution-under-way-north-korea/.

[32] See General Assembly resolution 2200 A (XXI), annex.

against Women, all of which have provisions for safeguarding the rights of women, including protecting women against violence.

54. In the Democratic People's Republic of Korea, as in many countries, there are prevailing cultural assumptions that women are dependent on men, and it is expected that women will be obedient and passive. As a result, women are more directly exposed to various types of cultural practices in the family that result in violence towards them. There are reports of husbands who often threaten their wives physically if they do not respect or obey them.[33] There is also a perception that domestic violence is not a crime and that the State should not intervene in such private family matters.[34] Even when a witness or a victim of domestic violence presents a case of violence to the police, reportedly, it is often not acted upon.

55. Violence against women is also reported to be pervasive in workplaces and local communities.[35] As women engage in more economic activities, they are exposed to sexual harassment and violence in buses, trains and markets.[36] At workplaces, the practice of male workers' making sexual allusions and physically assaulting their female co-workers is reportedly widely tolerated. Unfortunately, there is no appropriate legal channel for pursuing such cases, and there is a prevailing belief that any misconduct on the part of male workers is provoked or caused by the female employees.[37] It is reported that sexual harassment and rape in workplaces lead to the victim's being stigmatized and even forced to leave.[38]

56. Violence against women is also reported to have increased. There are reports of public security agents and patrols physically assaulting women in marketplaces; but since these agents are Government personnel, victims are not in a position to appropriately report their abuses. In the absence of a proper complaint-and-accountability mechanism, women continue to be exposed to acts of violence which they have little choice but to endure.

57. As the Democratic People's Republic of Korea adheres to a military-first policy, the military appropriates a disproportionate share of the State economy and population. When a woman applies to serve in the military, she goes through a very competitive selection process and must meet various requirements in order to

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[33] For more on this subject, see Citizens' Alliance for North Korean Human Rights, *The Battered Wheel of the Revolution: Briefing Report on the Situation of Violence against North Korean Women*, Briefing Report, No. 6, on the Situation of Violence against North Korean Women (Seoul, Life and Human Rights Books, February 2011), pp. 18-19.

[34] See article 2 (a) of the Declaration on the Elimination of Violence against Women (see General Assembly resolution 48/104), which states:

> Violence against women shall be understood to encompass, but not be limited to, the following:
>
> (a) physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation.

[35] For more on sexual violence against women at workplaces and in the military, see p. 419 of the 2010 *White Paper on Human Rights in North Korea*. Available from http://www.kinu.or.kr/upload/neoboard/DATA04/2010%20white%20paper.pdf.

[36] See *The Battered Wheel of the Revolution: Briefing Report on the Situation of Violence against North Korean Women*, pp. 18-19.

[37] Ibid.

[38] See p. 420 of the *White Paper on Human Rights in North Korea*. Available from http://www.kinu.or.kr/upload/neoboard/DATA04/2010%20white%20paper.pdf.

qualify. Once in the military, she is granted an opportunity to become a party member. Hence, there are a significant number of women who wish to enter the military. However, violence against women is also prevalent within the military and especially notorious within the construction unit.

58. The State authorities should establish counselling services for victims of violence and conduct awareness-raising and public education programmes. One of the main reasons for the perpetuation of violence against women in the society of the Democratic People's Republic of Korea is the State's inability or unwillingness to protect victims of violence and to punish the perpetrators.

59. There are a handful of cases where women are reported to have received some form of legal redress, including punishment of the perpetrators. However, the country should address all forms of violence against women and girls, and accord priority attention to the adoption of comprehensive measures, including the training of law enforcement agencies in responding effectively to the victims of violence.[39] The Special Rapporteur recommends that the newly established United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) explore the possibility of establishing an office in the Democratic People's Republic of Korea, with a view to supporting the authorities in that country in preventing violence against women.

G. Political prisons

60. In his previous report to the Human Rights Council (A/HRC/16/58) at its sixteenth session, held in February/March 2011, the Special Rapporteur dealt extensively with the question of detention centres and political prisons in the Democratic People's Republic of Korea. Since that report, human rights groups have published satellite images of alleged political prison camps in the Democratic People's Republic of Korea. These new images show four of the six camps occupying large land areas within vast wildernesses of the provinces of South Pyongan, South Hamkyung and North Hamkyung. It is reported that a comparison of the latest pictures with satellite imagery from 2001 indicates a significant increase in the scale of the camps. These images apparently also reveal the location and size of such prisons. It is estimated that the network of political prisons in the Democratic People's Republic of Korea, some of which are believed to be in operation since 1950s, hold up to 200,000 people. Reports indicate that a room of about 50 square metres houses about 30-40 political prisoners under harsh conditions. It is alleged that in most camps, no clothing is provided and prisoners face harsh winters. Inmates are also expected to work long hours performing manual labour. In Kwanliso 15 and Yodok prison camps, thousands of people are believed to be held by reason of "guilt by association" or sent to the camps simply because one of their relatives has also been detained. The majority of such people reportedly do not seem to know the reasons for their imprisonment or what crimes they are accused of. In some instances, escapees from the Democratic People's Republic of Korea have claimed that they suffered severe abuses and mistreatment in prisons in the Democratic People's Republic of Korea.

[39] See concluding comments of the Committee on the Elimination of Discrimination against Women for more such recommendations made to the Democratic People's Republic of Korea (A/60/38, part two, paras. 19-76).

61. The Special Rapporteur would like to draw the attention of the authorities of the Democratic People's Republic of Korea to provisions of the Standard Minimum Rules for the Treatment of Prisoners,[40] which provides guidance on certain minimum standards that need to be maintained in prisons. For instance, the rules provide that "where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself" (rule 9 (1)) and "(i)f for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room" (ibid.). Similarly, it provides that "where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions" (rule 9 (2)). There are a number of other provisions that set standards on clothing, health and sanitation, medical services and food.

62. While wishing to recommend these measures as standards applicable to all forms of detention centres in the Democratic People's Republic of Korea, the Special Rapporteur calls on the authorities to move forward concretely and urgently on the release of political prisoners. He proposes that the authorities begin the release of political prisoners starting with certain categories of prisoners, such as the elderly, those having medical conditions, long-serving prisoners, women who have children and persons imprisoned due to guilt by association.

63. It is time that the Democratic People's Republic of Korea permitted independent international organizations to access the country's prisons and monitor the conditions therein, as over a decade has elapsed since the last visit of any recognized international non-governmental organizations.

IV. Conclusions and recommendations

64. **In conclusion, the Special Rapporteur wishes to note that in his subsequent reports, he will continue to focus on areas such as family reunion, abduction of foreign nationals by authorities of the Democratic People's Republic of Korea, and broader questions of accountability for human rights violations in that country; and also wishes to make the following recommendations:**

65. **The Special Rapporteur believes that freedom of opinion and expression is an indispensable condition for the full development of society, and the realization of a number of rights. To this end, he calls on the Government to provide greater space for independent media, free access to the Internet and freedom of movement by journalists in and out of the country.**

66. **The Special Rapporteur urges the Government to introduce more extensive food security policies, including sound food production distribution measures, and allocate more funds to the food sector. He calls on the international community to provide humanitarian aid, while recognizing that it**

[40] Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977. Available from http://www2.ohchr.org/english/law/treatmentprisoners.htm.

is the Government's primary responsibility to ensure the right of people to have access to adequate food and to be able to satisfy their energy requirements.

67. **While welcoming the recent letter of understanding with WFP, providing for more humanitarian space for the monitoring of food distribution, the Special Rapporteur calls on the Government to provide similar access to other United Nations and non-United Nations organizations working in the country.**

68. **The Special Rapporteur calls on the Democratic People's Republic of Korea to pay increased attention to providing adequate nutrition and health care to women and children so as to uphold their right to health. He further urges the State to take effective measures, both preventive and curative, in response to the current health situation in the country and increase its budget allocation to the health sector.**

69. **The Special Rapporteur urges the authorities to take active measures to prevent violence against women and hold accountable those responsible for such violence. The Special Rapporteur recommends that the Democratic People's Republic of Korea adopt specific legislation on domestic violence, ensure that violence against women and girls constitutes a criminal offence and also ensure that women and girls who are victims of violence have access to immediate means of redress and protection.**

70. **The Special Rapporteur appeals to neighbouring countries to respect the rights of refugees, particularly the principle of non-refoulement and the human rights of asylum-seekers and irregular migrants. He also calls on countries in the region to review national immigration laws that lead to the detention or forced return of refugees and asylum-seekers. At the same time, he acknowledges the generosity of some of the neighbouring States in receiving asylum-seekers from the Democratic People's Republic of Korea and facilitating their resettlement.**

71. **The Special Rapporteur calls on the Government to release political prisoners, particularly those whose imprisonment is based on the fact of their association with their relatives, and invite independent international organizations to visit so as to assess and monitor prison conditions and recommend reforms of the prison system.**

72. **The Special Rapporteur reiterates his offer to provide assistance in improving the human rights situation in the country and urges the Democratic People's Republic of Korea to accept the offer of the Office of the United Nations High Commissioner for Human Rights to engage in technical cooperation.**